

### REMARKS

In the Office Action, three inventions were identified and Applicant was required to elect one. Further, Applicant was required to elect a single SEQ ID NO: in claims 1-4.

#### **Group Election**

Applicant hereby elects, without traverse, the invention identified as **Group I** (claims 1-2, 9-10), drawn to a polypeptide, a pharmaceutical composition and a microbicide comprising a polypeptide classified in class 514, subclass 12. Claim 7 has been amended and new claim 11 has been added. Claim 7 has been amended to be directed to the invention of Group I. Thus, the claims pending in the present application are claims 1-2, 7, and 9-11. Claims 3-6 and 8 are withdrawn.

#### **SEQ ID NO: Election**

Claims 1-4 are directed in part to "SEQ ID NOs: 2 or 3." Applicant is required in the Office Action to elect a single SEQ ID NO:, because, as alleged in the Office Action, the presence of multiple polypeptide sequences and polynucleotide sequences, each with a different SEQ ID NO:, allows for a variety of patentably distinct products.

Applicants hereby elect, *with traverse*, SEQ ID NO: 2. Applicants respectfully submit that SEQ ID NOs: 2 and 3 are not patentably distinct products. In claims 1 and 2, the claimed SEQ ID NO: 2 is the full-length amino acid sequence of Bin1b, while the claimed SEQ ID NO: 3 is the mature form of Bin1b after cleavage of the signal peptide. Thus, SEQ ID NOs: 2 and 3 are not distinct products, but rather different forms of the same antibacterial peptide of Bin1b. See Present Application, pg. 19, ll. 22-25 and pg. 20, l. 33. It is respectfully submitted, therefore, that SEQ ID NOs: 2 and 3 are not patentably distinct products and should not be subject to a restriction requirement.

CONCLUSION

Applicants reserve the right to cancel the withdrawn claims at a later date and re-introduce them in a continuation application.

This application now stands in allowable form and reconsideration and allowance is respectfully requested.

Applicants submit herewith a Petition for Extension of Time along with the necessary fee of \$55.00. It is believed that no additional fees are due in connection with this communication. However, the Office is hereby authorized to charge any deficiency, or credit any overpayment to Deposit Account 04-1420.

Respectfully submitted,

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